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April 1, 2004

CERTIFICATE OF MAILING 37 C.F.R 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: MS DD, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:

April 1, 2004

Michec. Rts

Date

Michael C. Barrett

MS DD Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Re:

U.S. Divisional Patent Application No: 10/751,586 entitled "APPARATUS AND

METHOD FOR ELECTROPORATION OF BIOLOGICAL SAMPLES" – by Sergey M.

Dzekunov, et al.

Our Ref. No. MAXC:013USD1

Sir:

Enclosed for filing in the above-referenced patent application is an Information Disclosure Statement, Form PTO-1449, and references A2, A63, C13, C15, C21-C22, C33, C35, and C43.

No fees are believed to be due in connection with the filing of this Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to the enclosed materials, the Commissioner is hereby authorized to deduct said fees from Fulbright & Jaworski Deposit Account No.: 50-1212/MAXC:013USD1.

Please date stamp and return the enclosed postcard evidencing receipt of these materials.

Respectfully submitted,

Michael Barrett

Michael RM

Reg. No. 44,523

MCB/cas Encl: As noted

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**PATENT** 



#### THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sergey M. Dzekunov et al.

Serial No.: 10/751,586

Filed: January 5, 2004

For: APPARATUS AND METHOD FOR ELECTROPORATION OF BIOLOGICAL

**SAMPLES** 

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: MAXC:013USD1

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April 1, 2004

Date

Michael C. Barrett

#### INFORMATION DISCLOSURE STATEMENT

MS DD

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents listed on attached Form PTO-1449 be considered by the Examiner and made of record.

In accordance with 37 C.F.R §§ 1.97(g), (h), this Information Disclosure Statement is not to be construed as a representation that a search has been made, and is not to be construed to be an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

The present Information Disclosure Statement is being filed prior to the receipt of a first

Official Action reflecting an examination on the merits, and hence is believed to be timely filed

in accordance with 37 C.F.R § 1.97(b). No fees are believed to be due in connection with the

filing of this Information Disclosure Statement, however, should any fees under 37 C.F.R.

§§ 1.16 to 1.21 be deemed necessary for any reason relating to these materials, the

Commissioner is authorized to deduct the appropriate fees from Fulbright & Jaworski Deposit

Account No.: 50-1212/MAXC:013USD1.

This application is a divisional application of Serial No. 10/225,446, filed August 21,

2002 and is relied upon for an earlier filing date under 35 U.S.C. § 120. In accordance with Rule

37 C.F.R. § 1.98(d) only copies of those documents not previously cited and submitted to the

Patent and Trademark Office in prior application Serial No. 10/225,446 are enclosed for the

convenience of the Examiner.

Applicants respectfully request that the listed documents be made of record in the present

case.

Respectfully submitted,

Michle Rta

Michael C. Barrett Reg. No. 44,523

Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P. 600 Congress Avenue, Suite 2400 Austin, Texas 78701 (512) 474-5201

Date:

April 1, 2004

Form PTO-1449 (modified)

List of Patents and Publications for Applicant's

INFORMATION DISCLOSURE STATEMENT

(Use several sheets if necessary)

Atty. Docket No. MAXC:013USD1

Serial No. 10/751,586

**Applicant** 

Sergey M. Dzekunov et al.

Filing Date: January 5, 2004

Group: Unknown

U.S. Patent Documents

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Foreign Patent Documents

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#### **U.S. Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date of App.
	A1	2001/0001064	5/10/01	Holaday	435	173.6	12/14/00
	A2	2003/0170871	9/11/03	Dubensky, Jr. et al.	435	235.1	4/25/01
	A3	2,955,076	10/4/60	Gossling			10/4/56
	A4	3,676,325	7/11/72	Smith et al.	204	288	6/8/70
	A5	4,075,076	2/21/78	Xylander	204	206	9/30/75
	A6	4,081,340	3/28/78	Zimmermann et al.	204	180	1/25/77
***************************************	A7	4,192,869	3/11/80	Nicolau et al.	424	199	10/17/78
	A8	4,252,628	2/24/81	Boulton et al.	204	257	2/23/78
	A9	4,321,259	3/23/82	Nicolau et al.	424	101	3/22/79
-	A10	4,440,386	4/3/84	Achelpohl	271	70	3/4/82
	A11	4,473,563	9/25/84	Nicolau et al.	424	224	11/2/81
	A12	4,476,004	10/9/84	Pohl	204	299	10/26/83
	A13	4,478,824	10/23/84	Franco et al.	424	101	8/8/83
	A14	4,622,302	11/11/86	Sowers	435	172.2	8/9/84
	A15	4,652,449	3/24/87	Ropars et al.	424	101	10/27/83
	A16	4,663,292	5/5/87	Wong et al.	435	287	
	A17	4,695,547	9/22/87	Hilliard et al.	435	173	4/2/86
	A18	4,699,881	10/13/87	Matschke	435	173	6/4/86
	A19	4,752,586	6/21/88	Ropars et al.	435	287	11/20/86
	A20	4,764,473	8/16/88	Matschke et al.	435	287	11/4/86
	A21	4,784,737	11/15/88	Ray et al.	204	180.1	4/18/86
	A22	4,800,163	1/24/89	Hibi et al.	435	287	12/15/87
	A23	4,804,450	2/14/89	Mochizuki et al.	204	299	12/10/86

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**EXAMINER:** 

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Form PTO-1449 (modified)		Atty. Docket No. Serial No. MAXC:013USD1 10/751,586		
List of Patents and Publications fo	r Applicant's	Applicant Sergey M. Dzekunov <i>et al.</i>		
INFORMATION DISCLOSURE S	STATEMENT			
(Use several sheets if necessary)		Filing Date: January 5, 2004	Group: Unknown	
U.S. Patent Documents	Foreign	Patent Documents	Other Art	
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### **U.S. Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date of App.
	A24	4,822,470	4/18/89	Chang	204	299	10/9/87
	A25	4,840,714	6/20/89	Littlehales	204	180.1	5/13/87
	A26	4,849,089	7/18/89	Marshall, III	204	299	2/21/89
	A27	4,849,355	7/18/89	Wong	435	172.3	12/30/87
	A28	4,874,690	10/17/89	Goodrich, Jr. et al.	435	2	8/26/88
	A29	4,882,281	11/21/89	Hilliard et al.	435	287	8/26/86
	A30	4,906,576	3/6/90	Marshall, III	435	287	5/8/87
	A31	4,910,140	3/20/90	Dower	435	172.3	4/18/88
	A32	4,923,814	5/8/90	Marshall, III	435	173	4/26/89
	A33	4,931,276	6/5/90	Franco et al.	424	533	3/13/89
	A34	4,945,050	7/31/90	Sanford et al.	435	172.1	11/13/84
	A35	4,946,793	8/7/90	Marshall, III	435	291	12/12/88
-	A36	4,956,288	9/11/90	Barsoum	435	172.3	4/22/88
	A37	4,970,154	11/13/90	Chang	435	172.2	8/30/88
	A38	4,995,957	2/26/91	Ziegler et al.	204	182.8	5/9/88
	A39	5,007,995	4/16/91	Takahashi <i>et al</i> .	204	299	5/11/89
	A40	5,036,006	7/30/91	Sanford et al.	435	170.1	8/17/89
	A41	5,043,261	8/27/91	Goodrich et al.	435	2	6/2/89
	A42	5,098,843	3/24/92	Calvin	435	287	7/9/90
	A43	5,100,627	3/31/92	Buican et al.	422	108	11/30/89
	A44	5,100,792	3/31/92	Sanford et al.	435	172.1	1/24/89
	A45	5,114,681	5/19/92	Bertoncini et al.	422	111	3/9/90
	A46	5,124,259	6/23/92	Tada	435	172.1	8/22/90

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EXAMINER: DATE CONSIDERED:

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		MAXC:013USD1	10/751,586	
List of Patents and Publications fo	r Applicant's	Applicant		
		Sergey M. Dzekunov e	t al.	
Information Disclosure S	STATEMENT			
		Filing Date:	Group:	
(Use several sheets if necess	ary)	January 5, 2004	Unknown	
U.S. Patent Documents	Foreign	Patent Documents	Other Art	
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#### **U.S. Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date of App.
	A47	5,128,257	7/7/92	Baer	435	173	8/31/87
	A48	5,134,070	7/28/92	Casnig	435	173	10/30/90
	A49	5,135,667	8/4/92	Schoendorfer	210	782	6/14/90
	A50	5,137,817	8/11/92	Busta et al.	435	173	10/5/90
	A51	5,139,684	8/18/92	Kaali et al.	210	748	11/16/90
	A52	5,232,856	8/3/93	Firth	435	287	7/30/90
	A53	5,424,209	6/13/95	Kearney	435	284	3/19/93
	A54	5,501,662	3/26/96	Hofmann	604	20	9/12/94
	A55	5,545,130	8/13/96	Hofmann et al.	604	4	10/12/94
	A56	5,612,207	3/18/97	Nicolau et al.	435	173.6	3/23/94
	A57	5,676,646	10/14/97	Hofmann et al.	604	4	3/14/96
	A58	5,720,921	2/24/98	Meserol	424	44	3/10/95
	A59	5,728,281	3/17/98	Holmström et al.	204	403	11/13/96
	A60	6,074,605	6/13/00	Meserol et al.	422	33	3/11/96
	A61	6,090,617	7/18/00	Meserol	435	285.2	12/5/96
	A62	6,485,961	11/26/02	Meserol	435	285.2	7/18/00
-	A63	6,506,604	1/14/03	Finer et al.	435	456	9/04/01

## **Foreign Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Country	Class	Sub Class	Translation Yes/No
	B1	AU 680890	10/11/94	Austria			
	B2	CA 2,214,800	2/22/02	Canada			
*	В3	CN 1195997	10/14/98	China			

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### **Foreign Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Country	Class	Sub Class	Translation Yes/No
	B4	DE 2405119	9/4/75	Germany			Abstract
	B5	DE 3603029	8/6/87	Germany			Abstract
	В6	DE 4440386	5/15/96	Germany			
	В7	EP 0137504	4/17/85	Europe			
	B8	EP 0343783	11/29/89	Europe			
	В9	EP 0362758	4/11/90	Europe			
	B10	EP 0472772	3/4/92	Europe			
	B11	EP 0798309	10/1/97	Europe			
	B12	JP 1141582	6/2/89	Japan			Abstract
	B13	JP 2131584	5/21/90	Japan			Abstract
	B14	JP 2131585	5/21/90	Japan			Abstract
	B15	JP 2186993	7/23/90	Japan			Abstract
	B16	JP 3195485	8/27/91	Japan			Abstract
	B17	JP 4027393	1/30/92	Japan			Abstract
	B18	JP 62151174	7/6/87	Japan			Abstract
	B19	ЈР 62171687	7/28/87	Japan			Abstract
	B20	JP 62228277	10/7/87	Japan			Abstract
	B21	JP 62265975	11/18/87	Japan			Abstract
	B22	JP 63141587	6/14/88	Japan			Abstract
	B23	JP 6349068	12/22/94	Japan		·	Abstract
	B24	JP 7180029	7/18/95	Japan			Abstract
	B25	JP 7320720	12/8/95	Japan			Abstract
	B26	WO 01/24830	4/12/01	PCT			

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### **Foreign Patent Documents**

Exam. Init.	Ref. Des.	Document Number	Date	Country	Class	Sub Class	Translation Yes/No
	B27	WO 88/04322	6/16/88	PCT			
	B28	WO 89/02464	3/23/89	PCT			
	B29	WO 89/03426	4/20/89	PCT			
	B30	WO 91/18103	11/28/91	PCT			
	B31	WO 94/21117	9/29/94	PCT			
	B32	WO 96/28199	3/11/96	PCT			
	B33	WO 98/24490	6/11/98	PCT			

# Other Art (Including Author, Title, Date Pertinent Pages, Etc.)

Exam. Init.	Ref. Des.	Citation					
	C1	"Advanced Coatings for the Medical Industry," Multi-Arc Scientific Coatings, Copyright © Andal Corp.					
	C2	"Biological Buffers," In: <i>The Biological Engineering Handbook</i> , Bronzino (ed.), CRC Press, pp. 1650, c1995.					
	C3	"Ion Bond® 16 Zirconium Nitride Coating," Multi-Arc, Inc., 1996.					
	C4	"Ion Bond® 17 Titanium Aluminum Nitride Coating," Multi-Arc, Inc., 1995.					
	C5	"Ion Bond® 19 Chromium Nitride Coating," Multi-Arc, Inc., 1995.					
	C6	"Ion Bond® Coatings for Instruments, Design Considerations," Multi-Arc, Inc., 1995.					
	C7	"Ion Bond® Coatings for Instruments, Most Commonly Asked Questions," Multi-Arc, Inc., 1995.					
	C8	"Preparation of certain reagents, anticoagulants and preservative solutions," In: Practical Haematology, 5 <sup>th</sup> Edition, Dacie and Lewis (eds.), Appendicies, pp.598, 1975					
	C9	"The Ion Bond Network," Multi-Arc, Inc., 1995.					

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Other Art (Including Author, Title, Date Pertinent Pages, Etc.	ages, Etc.)
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Exam. Init.	Ref. Des.	Citation
	C10	Abatti et al., "Development of a new geometrical form of micropipette: electrical characteristics and an application as a potassium ion selective electrode," <i>IEEE Trans. Biomed. Eng.</i> , 39:43-48, 1992.
	C11	Asakami et al., "Materials for electrode of alkali metal thermoelectric converter (AMTEC) (II)," J. Mater. Sci. Lett., 9(8):892-894, 1990.
	C12	Behrndt and Lunk, "Biocompatibility of TiN preclinical and clinical investigations," <i>Materials Sciences &amp; Engineering</i> , A139:58-60, 1991.
	C13	Bredenbeek et al., "Sindbus virus expression vectors: packaging of RNA replicaons by using defective helper RNAs," J. Virol., 67(11):6439-6446, 1993.
	C14	Capizzi et al., "Amifostine mediated protection of normal bone marrow from cytotoxic chemotherapy," Cancer, 72:3495-3501, 1993.
	C15	Chan et al., "A novel human suspension culture packaging cell line for production of high-titre retroviral vectors," Gene Therapy, 8:697-703, 2001.
	C16	Chassy et al., "Transformation of bacteria by electroporation," Trends in Biotechnology, 6(12):303-309, 1988.
	C17	Coll et al., "Metallurgical and Tribological modification of titanium and titanium alloys by plasma assisted techniques," Workshop H Society for Biomaterials Implat Retrieval Symposium, September 17, 1992.
	C18	Dunican and Shivnan, "High frequency transformation of whole cells of amino acid producing coryneform bacteria using high voltage electroporation," <i>Bio/Technology</i> , 7:1067-1070, 1998.
	C19	Egorov and Noikova, "Effect of phase composition of TiN-Ni sintered electrode materials of characteristics of the ESA process," Sov. Powder Metall Met. Ceram., 29(9):705-710, 1991.
	C20	Einck and Holaday, "Enhancement of tissue oxygenation by intracellular introduction of inositol hexaphosphate by flow electroporation of red blood cells," In: Tissue Oxygenation in Acute Medicine (Update in Intensive Care and Emergency Medicine, 33), Sibbald et al., (eds.), pp. 357-374, c1998.
	C21	Frolov et al., "Alphavirus-based expression vectors: strategies and applications," Proc. Natl. Acad. Sci., USA, 93:11371-11377, 1996.

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		Atty. Docket No. Serial No.	
		MAXC:013USD1	10/751,586
List of Patents and Publications for A	Applicant's	Applicant	
		Sergey M. Dzekunov	et al.
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(Use several sheets if necessar	y)	January 5, 2004	Unknown
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# Other Art (Including Author, Title, Date Pertinent Pages, Etc.)

Exam. Init.	Ref. Des.	Citation
	C22	Frolov et al., "Sindbis virus replicons and sindbis virus: assembly of chimeras and of particles deficient in virus RNA," J. Virol., 71(4):2819-2829, 1997.
	C23	Gersonde and Nicolau, "Enhancement of the O <sub>2</sub> release capacity and of the Bohr-effect of human red blood cells after incorporation of inositol hexaphosphate by fusion with effector-containing lipid vesicles," In: Origins of Cooperative Binding by Hemoglobin, 277-282, 1982.
	C24	Gersonde and Nicolau, "Improvement of the red blood cell O <sub>2</sub> release capacity by lipid vesicle-mediated incorporation of inositol hexaphosphate," <i>Blut</i> , 39:1-7, 1979.
	C25	Gersonde and Nicolau, "Modification of the oxygen affinity of intracellular haemoglobin by incorporation of polyphosphates into intact red blood cells and enhanced O <sub>2</sub> release in the capillary system," <i>Biblthca Haemat.</i> , 46:81-92, 1980.
	C26	Gersonde and Weiner, "The influence of infusion rate on the acute intravenous toxicity of phytic acid, a calcium-binding agent," <i>Toxicology</i> , 22:279-286, 1982.
	C27	Hirai et al., "A new antitumor antibiotic, FR-900482" J. of Antibiotics, 40/5:607-611, 1987.
	C28	Hofmann and Evans, "Eletronic genetic—physical and biological aspects of cellular electromanipulation," <i>IEEE Engineering in Medicine and Biology Magazine</i> , 6-11, 19-22, 1986.
	C29	Kinosita and Tsong, "Voltage-induced conductance in human erythrocyte membranes," Biochimica et Biophysica Acta, 554:479-497, 1979.
	C30	Kobayashi et al., "Fabrication of zirconim nitride sintered bodies and the application for electrode materials," J. Ceram. Soc. Jpn., 97(10):1189-1194, (with English summary), 1989.
	C31	Kullmann et al., "In vitro effects of pentoxifylline on smooth muscle cell migration and blood monocyte production of chemotactic activity for smooth muscle cells: potential therapeutic benefit in the adult respiratory distress syndrome," Am J. Respir. Cell, 8:83-88, 1993.
	C32	Kurtz and Gordon, "Transparent conducting electrodes on silicon," Sol. Energy Mater., 15(4):229-236, 1987.
	C33	Lee et al., "Low-glutamine fed-batch cultures of 293-HEK serum-free suspension cells for adenoviurs protection," Biotechnol. Prog., 19(2):501-509, 2003.
	C34	Lehninger (ed.), In: Principles of Biochemistry, Chapter 8: 181-194, 1982.

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Form PTO-1449 (modified)		Atty. Docket No.         Serial No.           MAXC:013USD1         10/751,586		•
List of Patents and Publications for A	Applicant's	Applicant Sergey M. Dzekunov e	t al.	
INFORMATION DISCLOSURE ST	ATEMENT			
(Use several sheets if necessar	y)	Filing Date: January 5, 2004	Group: Unknown	
U.S. Patent Documents	Foreign 1	Patent Documents	Other Art	
See Page 1		See Page 3	See Page 5	

(	Other Art (Including Author, Title, Date Pertinent Pages, Etc.)		
Exam. Init.	Ref. Des.	Citation	
	C35	Liljestrom et al., "In vitro mutagenesis of a full-length cDNA clone of Semliki Forest virus: a small 6,000-molecular-weight membrane protein modulates virus release," J. Virol., 65(8):4107-4113, 1991.	
	C36	Maurer et al., "Reduction of fretting corrosion of Ti-6A1-4V by various surface treatments," J. Orthop. Res., 11:865-873, 1993.	
	C37	Merz et al., "Determination of HIV infection in human bone," <i>Unfallchirurg</i> , 941:47-49, (with English summary), 1991.	
	C38	Mouneimne <i>et al.</i> , "Stable rightward shifts of the oxyhemoglobin dissocation curve induced by encapsulation of inositol hexaphosphate in red blood cells using electroporation," <i>FEBS Letters</i> , 275:117-120, 1990.	
	C39	Narayan et al., "Diamond, diamond-like and titanium nitride biocompatible coatings for human body parts," Materials Sciences & Engineering, B25:5-10, 1994.	
	C40	Nicolau et al., "Incorporation of allosteric effectors of hemoglobin in red blood cells. Physiological effects," Biblthca haemat., 51:92-107, 1985.	
	C41	Nicolau et al., "Short- and long-term physiological effects of improved oxygen transport by red blood cells containing inositol hexaphosphate," In: Phytic Acid: Chemistry and Applications, Graf (ed.), Chapter 16:265-290, 1986.	
	C42	Pietra et al., "Titanium nitride as a coating for surgical instruments used to collect human tissue for trace metal analysis," Analyst, 115:1025-1028, 1990.	
	C43	Pizzato et al., "Development of a suspension packaging cell line for production of high titre, serum-resistant murine leukemia vectors," <i>Gene Therapy</i> , 8:737-745, 2001.	
	C44	Ropars et al., "Improved oxygen delivery to tissues and iron chelator transport through the use of lysed and resealed red blood cells: a new perspective on cooley's anemia therapy," Annals New York Academy of Sciences, 445:304-315, 1985.	
	C45	Satomi et al., "Tissue response to implanted ceramic-coated titanium alloys in rats," J. Oral Rehab., 15:339-345, 1988.	

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EXAMINER: INITIAL IF REFERENCE CONSIDERED, WHETHER OR NOT CITATION IS IN CONFORMANCE WITH MPEP609; DRAW LINE THROUGH CITATION IF NOT IN CONFORMANCE AND NOT CONSIDERED. INCLUDE COPY OF THIS FORM WITH NEXT COMMUNICATION TO APPLICANT.

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List of Patents and Publications for	Applicant's	Applicant Sergey M. Dzekunov	et al.
Information Disclosure St	TATEMENT		
(Use several sheets if necessar	ry)	Filing Date: January 5, 2004	Group: Unknown
U.S. Patent Documents	Foreign I	Patent Documents	Other Art
See Page 1		ee Page 3	See Page 5

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	C47	Shoji et al., "New fabrication process for Josephson tunnel junctions with (niobium nitride niobium) double-layered electrodes," Appl. Phys. Lett., 41(11):1097-1099, 1982.	
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List of Patents and Publications for Applicant's		Applicant		
		Sergey M. Dzekunov et al.		
Information Disclosure Statement				
. (Use several sheets if necessary)		Filing Date:	Group:	
		January 5, 2004	Unknown	
U.S. Patent Documents	Foreign Patent Documents		Other Art	
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